

26. The method of claim 25, wherein the providing step further includes connecting the canopy to at least two hubs positioned proximate the upper portion of the containment device when the containment device is in the open erect configuration.

27. The method of claim 26, wherein the expanding step further includes forming a receptacle region defined by the open erect containment device and positioning the canopy in the receptacle region.

28. The method of claim 27, wherein the receiving step includes receiving and retaining hazardous chemicals in the canopy.

REMARKS

In the November 29, 2001 Action, claim 6 is rejected under 35 U.S.C. §112, ¶ 2, as indefinite. Claims 1-9, 20 and 21 are rejected under 35 U.S.C. §102(b) as anticipated by Esser. Claims 1-9, 20 and 21 are rejected under 35 U.S.C. §102(b) as anticipated by Brown. Claim 13 is rejected under 35 U.S.C. §103(a) as unpatentable over Brown in view of Lobbert.

By this amendment, claims 1, 2, 4, 6 and 20 are amended, and claims 22-28 are added. Thus, claims 1-9, 13, and 20-28 are pending in the application.

Claim 6 is rejected under 35 U.S.C. §112, ¶ 2, as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants have amended claim 6 to obviate the grounds for the Examiner's rejection. Applicants therefore submit that claim 6 is definite and respectfully request that the Examiner withdraw the 35 U.S.C. §112, ¶ 2 rejection.

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Claims 1-9, 20, and 21 are rejected under 35 U.S.C. §102(b) as anticipated by Esser.

Applicants respectfully traverse this rejection.

The Esser reference neither discloses nor suggests the subject matter of the claimed invention. Instead, Esser discloses an redesigned hub configuration for quick erect shelters. See Esser, col. 2, lines 39-42. The redesigned hub configuration apparently offers decreased weight and enclosed utility lines. See Esser col. 2, lines 21-24. The Esser redesign, however, does not address the issue of hazardous waste recovery. Similarly, the Esser reference neither discloses nor suggests an apparatus capable of retaining hazardous waste. But the claims of the present invention are directed to a rapid deploy containment device adapted to receive and retain hazardous waste. In claims directed to an apparatus, any phraseology in the preamble that limits the structure of the apparatus must be given weight. See MPEP §2111.02. Since Esser bares no relevance to the issue of hazardous waste recovery, it is respectfully asserted that Esser cannot anticipate the claims of the present invention.

Claims 1-9, 20, and 21 are rejected under 35 U.S.C. §102(b) as anticipated by Brown.

Applicants respectfully traverse this rejection.

The Brown reference fails to disclose the features of the present invention, as recited in the claims. For example, Brown fails to teach a device that articulates along three axes (height, length, and width) between an open erect configuration and a collapsed compact configuration. Instead, Brown discloses a basket capable of collapsing in only one direction (length). See Brown, Figs. 1 & 3. The ability to articulate in three directions allows the containment device to collapse to a compact structure having a planner surface area defined only by the set of hubs positioned adjacent one another. (See Fig. 1 of the present application, illustrating one such example of a collapsed compact configuration). This provides a portable hazmat containment

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device easily transported in its collapsed compact configuration. Contrary to such a device, Brown teaches a structure where rods 16 and bars 15 are substantially perpendicular to one another in the collapsed configuration; thus, hindering the compactness of the basket, because its planar surface area is defined by not only the repositioned angle irons 11 and collapsed bars 15 (height), but also the length of the rods 16 (width). See Brown, Figs. 3 & 6. Indeed, the height and width of the Brown device remains unchanged between the extended and collapsed configurations. See Brown, Figs. 1 & 3.

An anticipation rejection under 35 U.S.C. §102(b) requires that a single reference disclose every element of the claim subject to the rejection. MPEP §2131. Since the Brown reference fails to disclose a device that articulates along three axes (height, length, and width) between an open erect configuration and a collapsed compact configuration, it is respectfully asserted that Brown cannot anticipate the claims of the present invention.

Applicants further note that the Brown reference fails to teach a device adapted to receive and retain hazardous waste, as recited by the present claims. Again, the ordinary meaning of hazardous waste, according to dictionary definitions, is "a substance that is potentially damaging to the environment and harmful to the health of humans and other living organisms." THE AMERICAN HERITAGE COLLEGE DICTIONARY, 3rd ed., p. 624 (1997). Applicant respectfully disagrees with the Examiner's assertion that "dirty socks and other laundry" qualify as hazardous waste or relate in any way to hazardous waste. Even though an annoyance, dirty laundry is neither potentially damaging to the environment nor harmful to the health of humans and other living organisms. Since the Brown reference fails to teach a device that retains hazardous waste, Applicants respectfully assert that the claims of the present invention are allowable over Brown for this additional reason.

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Similarly, the Brown reference fails to render obvious the claims of the present invention under 35 U.S.C. §103(a). To establish a case of obviousness, all claim limitations must be taught or suggested by the prior art. MPEP §2143.03. As previously noted, Brown neither teaches nor suggests a device that articulates along three axes (height, length, and width) between an open erect configuration and a collapsed compact configuration, or a device adapted to receive and retain hazardous waste. In the absence of such teachings, Brown cannot render obvious the claims of the present invention.

Claim 13 is rejected under 35 U.S.C. §103(a) as unpatentable over Brown in view of Lobbert. Applicant respectfully traverses this rejection.

As discussed above, Brown does not suggest that teachings recited in the claims of the present invention. Similarly, Lobbert fails to cure this deficiency. Lobbert discloses a waste receptacle device that includes a removable container and a lid that tightly closes the container. See Lobbert, col. 2, lines 43-63. In Lobbert, there is no teaching or suggestion of a rapid deploy containment device, i.e., a device moveable between an erect open configuration and a collapsed compact configuration. In the absence of such disclosure, the Brown and Lobbert references, either alone or in combination, fail to teach the rapid deploy containment device recited in the claims of the present invention. As such, allowance of the claims of the present invention is respectfully requested.

New claims 22-28 are added to round out the protection to which Applicant is entitled. Newly added claims 22-28 recite a unique method of retaining hazardous waste that includes the provision of a containment device that expands in its height, width, and length from a collapsed configuration to an open erect configuration. There is simply no teaching or suggestion of the

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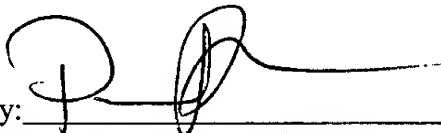
above subject matter in any of the cited references. Thus, Applicants respectfully request that claims 22-28 be allowed.

In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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APPENDIX TO AMENDMENT DATED MARCH 22, 2001

Amendments to the Claims

Please amend claims 1, 2, 6, and 20, as follows:

1. (Twice Amended) A rapid deploy containment device adapted to receive and retain hazardous waste, the containment device being moveable between an erect open configuration and a collapsed compact configuration, the containment device in the open configuration [having] forming a receptacle [capable of receiving hazardous waste], the containment device comprising:

rods, each rod being pivotally joined to another rod by a scissors connection intermediate the ends of said rod;

hubs, each hub receiving an end portion of at least two rods along separate axes of each hub, the end portion [said rods] being pivotally joined to said hub [hubs], where the end portion pivots [each of said rods pivot] in relation[,] to said hub along a single axis of revolution, each end portion pivoting along separate axes of revolution in relation to said hub.

[said rods] each end portion being rotatable about its [the single] axis of revolution from the collapsed compact configuration, where all of said rods are substantially parallel to one another, to the erect open configuration, the containment device articulating along three axes.

whereby the containment device collapses between the compact and open configurations in height, length and width; and

a canopy connected to at least two hubs and residing in the receptacle of the erect containment device.

2. (Twice amended) The containment device recited in claim 1, wherein each of said hubs includes flanges, where at least two of the flanges receive the [ends] end portion of said rods.

6. (Once Amended) The containment device recited in claim 5, wherein the end portion of each of said rods is pivotally joined to [said flange] a hub by a pin inserted through the end portion of said rod and received on two [of said] opposing flanges.

20. (Twice amended) A rapid deploy containment device adapted to receive and retain hazardous waste, the containment device being convertible between an erect open configuration and a collapsed compact configuration, [the containment device in the open configuration having a receptacle region capable of receiving and retaining hazardous waste], the containment device comprising:

rods, each rod being pivotally joined to another rod by a scissors connection intermediate the ends of said rod;

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hubs, each hub receiving an end portion of at least two rods along separate axes of each hub, [said rods] the end portion being pivotally joined to said [hubs] hub, where [each of said rods pivot] the end portion pivots in relation to said hub along a single axis of revolution,

[said rods] each end portion being rotatable about its [the single] axis of revolution from the collapsed configuration, where all of said rods are substantially parallel to one another and where said hubs are positioned adjacent one another at each end portion of the collapsed configuration, to the open erect configuration, wherein the hubs positioned proximate the top portion of the collapsed configuration descend downward toward the bottom portion of the containment device when converting from the collapsed configuration to the erect configuration and wherein the containment device articulates between the collapsed and open configurations in height, length, and width; and

a canopy affixed to at least two hubs proximate the upper portion of the containment device in the open erect configuration to form the receptacle region capable of receiving and retaining hazardous chemicals.

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